

**IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MARYLAND**

DAVID BOWLES

*

Plaintiff,

*

v.

*

Case No.: 8:17-cv-01877-GJH

DIAMOND STATE TRUCKING, INC., ET AL.

*

Defendant.

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**DEFENDANT DIAMOND STATE TRUCKING, INC.’S
MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF ITS MOTION TO
COMPEL DISCOVERY RESPONSES AND RULE 26 DESIGNATION AND/OR TO EXTEND
TIME FOR DEFENDANTS’ RULE 26 DESIGNATION**

Defendant, Diamond State Trucking, Inc. (“Defendant”), hereby submits this Memorandum of Points and Authorities in support of its Motion to Compel Discovery Responses and Rule 26 Designation and/or to extend time for Defendants’ Rule 26 Designation. As support for Defendant’s Motion, Defendant states as follows:

Plaintiff initially brought this lawsuit in the Circuit Court for Prince Georges County against Defendants Diamond State Trucking, Inc. and Jimmy Dean Wilson. Defendant Diamond State Trucking filed an Answer to the Complaint and served the Plaintiff with Interrogatories and request for Production of Documents on July 7, 2017. *See Exhibit 1, attached.* Defendant Jimmy Dean Wilson filed a Notice of Removal to this Honorable Court on July 7, 2017 and the matter has proceeded in United States District Court.

This Court issued a Scheduling Order on August 10, 2017. In the Court’s Scheduling Order, the parties were directed to make their respective Rule 26(a)(2) disclosures regarding expert witnesses by a

date certain. Plaintiffs were directed to make their Rule 26(a)(2) expert disclosures by or before October 10, 2017. Defendant was directed to make its disclosure by November 8, 2017. Plaintiffs were ordered to disclose rebuttal expert witnesses by November 22, 2017.

Plaintiff has failed to respond to discovery and has failed to produce his Rule 26(a)(2) expert disclosures as required by the Court's Order. Counsel for Defendant has made multiple good faith efforts to resolve this issue without having to file the instant Motion, but Plaintiff has failed to comply with these requests. *See Exhibit 2, attached.* Defendants are prejudiced by Plaintiff's absolute discovery failures and are unable to produce their Rule 26(a)(2) expert disclosures as required by the Court's Order as they have no information regarding the plaintiff's allegations in this case.

As such, Defendant requests that Plaintiff be compelled to produce discovery responses and a Rule 26 compliant designation of experts, or be precluded from putting on any information requested in discovery at trial of this matter. Defendant further requests an extension of 30 days from the time Plaintiff produces complete discovery responses and complaint Rule 26(a)(2) expert disclosures to files their Rule 26(a)(2) expert disclosures.

CONCLUSION

For the foregoing reasons, Defendant respectfully requests that this Court grant its Motion and compel Plaintiffs to produce discovery responses and a Rule 26 compliant expert disclosure. In addition, Defendant moves for an extension of 30 days from the time Plaintiff produces complete discovery responses and complaint Rule 26(a)(2) expert disclosures to files their Rule 26(a)(2) expert disclosures.

Dated: November 8, 2017

Respectfully Submitted,

**WILSON, ELSER, MOSKOWITZ,
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/s/ Brigitte J. Smith

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Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Memorandum in Support of Defendant's Motion to Compel was served on November 8, 2017, via ECF upon the following:

Jason E. Miles, Esquire
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Attorney for Plaintiff

/s/ Brigitte J. Smith

Brigitte J. Smith